

**UTAH WATER QUALITY BOARD**

<b>IN THE MATTER OF PROVO CITY, 1685 South East Bay Blvd. Provo, Utah</b>	<b>DOCKET NUMBER M08-05 SETTLEMENT AGREEMENT</b>
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This **SETTLEMENT AGREEMENT** (hereinafter "**AGREEMENT**") is between **Provo City** (hereinafter "**OPERATOR**") and the **UTAH WATER QUALITY BOARD** (hereinafter the "**BOARD**"), concerning violations of the *Utah Water Quality Act* (the *Act*), *Utah Code Annotated*, and the *Utah Administrative Code*.

1. The **BOARD** has authority to administer the *Utah Water Quality Act, as amended 1953*, (hereinafter the "**ACT**").
2. The **BOARD** has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the *National Pollutant Discharge Elimination System (NPDES)* permit program under the *Federal Clean Water Act (CWA)*.
3. The parties now desire to resolve this matter fully without further administrative proceedings except to the extent provided herein by entering into this **AGREEMENT**. Entering into this **AGREEMENT** is not an admission of liability or factual allegation set out in the **NOTICE**, nor is it an admission of or an agreement to any disputed facts or disputed legal theories, nor is it an admission of any violation of any law, rule, regulation or permit by the **OPERATOR**.
4. The **EXECUTIVE SECRETARY** of the **BOARD** (hereinafter the "**EXECUTIVE SECRETARY**") will administer the terms and provisions of this **AGREEMENT**.
5. This **AGREEMENT** resolves the **NOTICE OF VIOLATION** and **ORDER**, Docket Number M08-05 (hereinafter the "**NOTICE**"), between the **OPERATOR** and the **BOARD**, issued to the **OPERATOR** on July 28, 2008, by the **BOARD**. It does not in any way relieve the **OPERATOR** from any other obligation imposed under the *Act* or any other State or Federal laws.
6. The **OPERATOR** agrees to the following settlement terms:
  - A. The **OPERATOR** agrees to pay a penalty in the amount of \$1,700.00 within thirty (30) days of the effective date of this **AGREEMENT** by check made payable to the State of Utah delivered or mailed to:

Department of Environmental Quality  
Division of Water Quality  
P. O. Box 144870  
Salt Lake City, Utah 84114-4870

- B. The **OPERATOR** further agrees to fund the mitigation project, in the amount of \$7,000 as a

part of the penalty assessment pursuant to *UAC R317-1-9.4*. The mitigation project funds must be utilized by no later than one year from the effective date of this **AGREEMENT**.

The **OPERATOR** must submit within ninety (90) days of the effective date of this **AGREEMENT** for **EXECUTIVE SECRETARY** approval, a project implementation plan for each project that includes a detailed description of the mitigation project, a cost breakdown showing how the funds will be used, and a plan for implementation of the project, which shall include a time frame for implementation and completion of the project and submission of final document(s) indicating completion of the project. The implementation plan should also include a funding schedule which specifies who receives the mitigation funds and when.

The **OPERATOR** participation in the mitigation projects must fully adhere to *UAC R317-1-9.4*. The **OPERATOR** agrees not to attempt to gain or generate any positive publicity, and further agrees not to deduct or otherwise attempt to obtain a tax benefit from the foregoing funding of the mitigation projects.

7. Nothing contained in this **AGREEMENT** shall preclude the **BOARD** from taking additional actions to include additional penalties against the **OPERATOR** for permit violations not resolved by this **AGREEMENT**.
8. If an agreement between the **OPERATOR** and the **EXECUTIVE SECRETARY** cannot be reached in a dispute arising under any provision of this **AGREEMENT**, then the **OPERATOR** or the **EXECUTIVE SECRETARY** may commence a proceeding with the **BOARD** under the *Administrative Procedures Act* to resolve the dispute. A final decision in any adjudicative proceeding shall be subject to judicial review under applicable state law.
9. Nothing in this **AGREEMENT** shall constitute a waiver by the **OPERATOR** to raise in defense any legal or factual contention for future allegations of noncompliance.
10. Nothing in this **AGREEMENT** shall constitute or be considered as a release from any claims, to include natural resource damage claims, cause of action, or demand in law or equity which the **STATE** may have against the **OPERATOR**, or any other person, firm, partnership or corporation for any liability arising out of or relating in any way to the release of pollutants to waters of the State.

AGREED to this \_\_\_\_ day of \_\_\_\_\_, 2008.

**PROVO CITY**

**UTAH WATER QUALITY BOARD**

By \_\_\_\_\_  
Merril Bingham

By \_\_\_\_\_  
Executive Secretary